IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 106 OF 2007
IN
C.R.A (St.) No. 8806 of 2007

George Michael .. Petitioner.

V/s.

1. Jawaharlal Sitaram Agarwal & Ors. .. Respondents.

Mr.A.Y.Sakhare i/by Dharmendra Joshi for the Petitioner.

Miss. M.V.Thakkar i/by S.V.Thakkar & R.V.Thakkar for the Respondent No.1.

CORAM : S. A. BOBDE, J.

DATED : 10th OCTOBER, 2007.

P.C. :-

. This is an application for condonation of delay of about 1054 days in filing the civil revision application. The decree was passed by the lower appellate court on 24.02.2004. The applicant applied for certified copy of it on 31.08.2006 and received it on 04.09.2006 and thereafter the revision is preferred on 19.04.2007. The applicant was, admittedly the defendant No.4 (c) in the suit filed by the respondent. He claims that he had no knowledge about the matter and he got knowledge of the matter only on 13.02.2006 when there was a family settlement between the parties and that the suit property came to his share. Thereafter,

he obtained papers from one Advocate Shri Pradhan, who is a solicitor and has thereafter filed this revision on 19.04.2007.

2. Ms. Thakkar, the learned counsel for the respondent submits that the applicant always had knowledge of the matter and was present in the court. She points out that at two places, the trial court recorded the presence of the respondent No.4 (c) i.e. the present applicant. Shri Sakhare, the learned counsel for the applicant, however, submits that the presence of the applicant must have been wrongly recorded. It seems that the court has not recorded the name of the applicant but has recorded the serial number of the respondent in the array of parties. It is possible that the court has not carefully recorded the number so as to correctly identify the respondent. In fact the court seems to have recorded the applicant's name as defendant No.4(d) at another place. It is, therefore, not safe to infer that the court intended to refer to the applicant while recording the presence of the defendant No.4(c).

3. However, the learned counsel for the respondent points out that the applicant's case that he did not know about the matter is wholly false in view of the

fact that he has himself signed the written statement in the year 1998. This written statement was filed after his father's death. Shri Sakhare, the learned counsel for the applicant fairly accepted the fact that the applicant had filed a written statement in the year 1998 as defendant 4(d). This clearly establishes that the said defendant had knowledge of the matter throughout and in any case from 1998 when he had signed the written statement. The entire story made up for the purpose of condonation of delay appears to be fictitious. If the applicant had knowledge in the year 1998, surely there is no sufficient cause for filing this civil revision application after a delay of over 1054 days.

4. The application for condonation of delay is hereby dismissed.

(S.A.BOBDE,J.)

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